

## 46 Am. Jur. 2d Judges § 141

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### Judges

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### IX. Disqualification to Act in Particular Case

#### B. Grounds for Disqualification

##### 4. Bias or Prejudice as Grounds for Disqualification

##### c. Judge's Actions or Rulings as Grounds for Disqualification

## § 141. Adverse or erroneous rulings as grounds for disqualification

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### West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2), 50

Adverse rulings and findings by a trial judge do not constitute bias per se,<sup>1</sup> and this rule is embodied in some state statutes.<sup>2</sup> The fact that a court rules in favor of one party over the other does not automatically mean that the judge is biased or prejudiced against the losing party,<sup>3</sup> as any prejudice must ordinarily stem from an extrajudicial source.<sup>4</sup> It is a trial judge's obligation to view the witnesses, weigh their credibility, and determine the facts, and because in doing so a trial judge necessarily decides in favor of one party rather than the other does not exhibit bias.<sup>5</sup>

Adverse rulings against a litigant, even if erroneous, are insufficient to establish a judge's bias or prejudice and are not grounds for disqualification.<sup>6</sup> Previous rulings of a trial judge which are subject to correction on appeal may not form a basis for recusal.<sup>7</sup> Alleged errors of law or procedure are legal issues subject to appeal and are not grounds for disqualification.<sup>8</sup>

### Observation:

Erroneous trial court rulings generally are properly grounds for appeal, not for recusal of the judge, but where review of facts in the record shows the judge's impartiality might reasonably be questioned, the appellate court should remand the matter to another judge.<sup>9</sup>

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#### Footnotes

- 1 Taffner v. Arkansas Department of Human Services, 2016 Ark. 231, 493 S.W.3d 319 (2016), cert. denied, 137 S. Ct. 687, 196 L. Ed. 2d 566 (2017); People v. Pearson, 56 Cal. 4th 393, 154 Cal. Rptr. 3d 541, 297 P.3d 793 (2013); Williams v. State, 987 So. 2d 1 (Fla. 2008); In re Marriage of Troske, 389 Ill. Dec. 594, 27 N.E.3d 86 (App. Ct. 5th Dist. 2015); George v. Al Hoyt & Sons, Inc., 162 N.H. 123, 27 A.3d 697 (2011); Schweitzer v. Mattingley, 2016 ND 231, 887 N.W.2d 541 (N.D. 2016); State v. McKelton, 148 Ohio St. 3d 261, 2016-Ohio-5735, 70 N.E.3d 508 (2016), cert. denied, 137 S. Ct. 1594, 197 L. Ed. 2d 720 (2017).  
Disqualification is not intended to enable a discontented litigant to oust a judge because of adverse rulings made, and mere evidence that a judge has exercised his judicial discretion in a particular way is not sufficient to require disqualification. Luker v. Sykes, 357 P.3d 1191 (Alaska 2015).
- 2 State v. Dunn, 243 Kan. 414, 758 P.2d 718 (1988).
- 3 Hill v. Hill, 79 Md. App. 708, 558 A.2d 1231 (1989).  
Adverse rulings against a defendant do not indicate a personal bias that calls impartiality into question. Komyatti v. State, 931 N.E.2d 411 (Ind. Ct. App. 2010).
- 4 Lewis v. Zero Breese Roofing Co., 3 Fed. Appx. 369 (6th Cir. 2001); Browner v. District of Columbia, 549 A.2d 1107 (D.C. 1988).  
As to the requirement that bias be extrajudicial, see § 127.
- 5 Wolf v. Wolf, 474 N.W.2d 257 (N.D. 1991).
- 6 People v. Pearson, 56 Cal. 4th 393, 154 Cal. Rptr. 3d 541, 297 P.3d 793 (2013); Leshner v. Trent, 407 Ill. App. 3d 1170, 348 Ill. Dec. 526, 944 N.E.2d 479 (5th Dist. 2011); Schweitzer v. Mattingley, 2016 ND 231, 887 N.W.2d 541 (N.D. 2016); State v. McKelton, 148 Ohio St. 3d 261, 2016-Ohio-5735, 70 N.E.3d 508 (2016), cert. denied, 137 S. Ct. 1594, 197 L. Ed. 2d 720 (2017); State v. Solis-Diaz, 187 Wash. 2d 535, 387 P.3d 703 (2017).
- 7 State v. Dunn, 243 Kan. 414, 758 P.2d 718 (1988).
- 8 In re Disqualification of Kilpatrick, 47 Ohio St. 3d 605, 546 N.E.2d 929 (1989).
- 9 State v. Solis-Diaz, 187 Wash. 2d 535, 387 P.3d 703 (2017).

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